REMARKS

Favorable reconsideration is respectfully requested in view of the foregoing amendments and following remarks.

Claim 1 has been amended to incorporate the subject matter of claims 3, 4 and 6. Claims 2, 4 and 6 are cancelled without prejudice. New claim 7 has been added corresponding to claim 1 as amended except in the removal of certain limitations which are deemed to be unnecessary, and to recite that the (S) form is assimilated "in preference to" the (R) form. See the sentence bridging pages 22-23 of the specification.

Turning to the Official Action, claims 1-4 and 6 are rejected under 35 USC 112, second paragraph, as being indefinite. The Examiner has questioned whether the "single carbon source" is the sole carbon source. The Examiner's understanding is correct. This meaning is believed to be clear from the teaching of the specification, for example, see the contents of the mediums taught in the specification in Example 1 on pages 14-15.

Accordingly, reconsideration and withdrawal of this ground of rejection is respectfully solicited.

Claim 5 is rejected under 35 USC 102 as being anticipated by U.S. Patent No. 5,246,843 or JP 6-209781 or JP 6-030790. This ground of rejection is respectfully traversed.

The strains (FERM P-11109, 11108, 11110) disclosed in U.S. Patent No. 5,246,843 are different from the strain of claim 5 in bacterial property. The strain DS-S-RP8 of claim 5, when it is reacted with racemic 3-chloro-1,2-propanediol, assimilates (R)-3-chloro-1,2-propanediol to obtain (S)-3-chloro-1,2-propanediol. See Table 3 of the Rule 132 Declaration of Dr. Suzuki submitted concurrently herewith. On the other hand, the strains of U.S. Patent No. 5,246,843, when they are reacted with racemic 3-chloro-1,2-propanediol, assimilate (S)-3-chloro-1,2-propanediol to obtain (R)-3-chloro-1,2-propanediol, according to the teachings of the patent.

In addition, the strains of U.S. Patent No. 5,246,843 have no ability to assimilate racemic 1,2-propanediol, in comparison to the claimed strain.

Therefore, Pseudomonas nitroreducens DS-S-RP8 (Deposit No.: FERM BP-7793) of claim 5 is patentably distinct from the strains of U.S. Patent No. 5,246,843 and is not anticipated by U.S. Patent No. 5,246,843.

Regarding JP 6-209781 and JP 6-030790, Pseudomonas nitroreducens DS-S-RP8 (Deposit No.: FERM BP-7793) is patentably different from respective strains of Pseudomonas disclosed in JP 6-209781 and JP 6-030790 in their strains levels as shown in Dr. Suzuki's Declaration submitted herewith.

In view of the foregoing, reconsideration and withdrawal of this ground of rejection is respectfully solicited.

Lastly, claims 1-3 and 6 are rejected under 35 USC 103 as being unpatentable over JP 6-209781 or JP 6-030790. This ground of rejection is respectfully traversed.

According to the Examiner's opinion on page 4, lines 17-19, he indicated "JP 6-030790 disclose a method of using Pseudomonas TRB2, TRB4 and TRB13 to enantioselectively assimilate the (S)-1,2-propanediol enantiomer from its raceme".

However, JP 6-030790 and JP 6-209781 never disclose the enantioselective assimilation method. In fact, three strains of JP 6-030790 and JP 6-209781 do not have an ability of enantioselective (or asymmetric) assimilation and only one strain TRB2 has such ability. However, strain TRB2 is inferior to strain DS-S-RP8 of the present invention in ability of enantioselective (or asymmetric) assimilation at a higher concentration of substrate, 1,2-propanediol (e.g. 4%) as shown in the Declaration herewith. In addition all the strains disclosed in JP 6-030790 and JP 6-209781 have no ability of enantioselective (or asymmetric) assimilation of 3-chloro-1,2-propanediol as shown in the attached Declaration, in comparison to the claimed strain.

Furthermore, as the Examiner recognizes, the method of claim 1 of the present invention is not disclosed anywhere in JP 6-030790 and JP 6-209781. As is clear from the Declaration, three strains of four strains of JP 6-030790 and JP 6-209781 are unable to use the method of claim 1 of the present invention. Therefore, it is respectfully submitted that the method of claim 1 of the present invention is not suggested by the disclosure of JP 6-030790 or JP 6-209781.

In view of the foregoing, it is believed that each ground of rejection set forth in the Official Action has been overcome, and that the application is now in condition for allowance. Accordingly, such allowance is solicited.

Respectfully submitted,

Toshio SUZUKI et al.

By: Warren Cheek

Warren M. Cheek, Jr.
Registration No. 33,367
Attorney for Applicants

WMC/dlk
Washington, D.C. 20006-1021
Telephone (202) 721-8200
Facsimile (202) 721-8250
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